



June 29, 2004

Ms. Deidre A. Lee  
Director of Defense Procurement  
and Acquisition Policy  
Department of Defense  
OUSD (AT&L)  
3060 Defense Pentagon, Room 3E1044  
Washington, DC 20301-3060

Dear Ms Lee:

The Aerospace Industries Association's (AIA) member companies continue to be supportive of the DOD Unique Identification (UID) initiative and are currently engaged in evaluating the implementation of the necessary processes to meet the UID requirements. As you know, we face many implementation challenges in meeting the requirements of the DOD UID policy and the specific marking requirements of Mil-Std-130, Rev L. However, one of the issues that must be resolved before industry can move forward is the ownership of the intellectual property associated with the implementation of the 2D marking technology required by the Mil-Std and the implementing DFARS clause.

It is our understanding that Mil-Std-130, Rev L requires that parts to be delivered to the government be marked with a 2D data matrix symbology placed directly on the part. This data matrix symbology must be constructed in a manner prescribed in the Mil-Std. Although certain aspects of the 2D data matrix symbology may be in the public domain, our preliminary research indicates that the technologies associated with the implementation of the 2D marking required by DOD (such as marking, reading and verifying methods and tools) are the subjects of numerous patents and likely pending patent applications owned by dozens of companies.

In order to quickly move forward with the required UID marking, we request the following:

- The Department provide that any and all contractor actions in support of the UID initiative are done with the "authorization and consent" of the government, and clearly limit any indemnification provision such that contractors will not be liable for patent indemnity related to any UID related patent. This could be accomplished by requiring that all DOD contracts that include the UID marking requirement contain the FAR Authorization and Consent clause 52.227-1 or its Alternate I. If Alternate I is not included in the contract, the Contracting Officer must either provide specific written

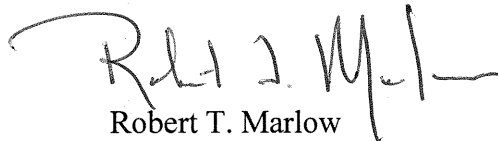
instructions to contractors directing them to use the particular UID technologies adopted by the contractor, or an additional provision to provide unlimited authorization and consent to use UID technologies such as:

*"The Government authorizes and consents to all use and manufacture of any invention described in and covered by a United States patent with respect to any technology used in association with implementation of Unique Identification markings, including but not limited to marking, reading and verifying methods and tools."*

- DOD obtain the necessary intellectual property licenses from the owners of the technologies used to implement the 2D marking system or agree to reimburse contractors for obtaining those licenses.

We would appreciate your assistance in resolving this important matter at the earliest possible date.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. T. Marlow', with a long horizontal stroke extending to the right.

Robert T. Marlow  
Vice President  
Government Division

cc: LeAntha Sumpter